

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AGRON MITCHELL SIMPSON,

Defendant.

Criminal No. 3:00-cr-00246

**DEFENDANT SIMPSON'S RESPONSE TO
PROBATION OFFICE'S RETROACTIVE ADJUSTMENT MEMO
AND GOVERNMENT'S POSITION STATEMENT**

NOW COMES Defendant Agron Mitchell Simpson, in response to the Court's 30 November 2011 order, and responds to both the Probation Office's adjustment memo (Dkt. 96) and the Government's position statement (Dkt. 99).

1. The Defendant agrees with both the Probation Office and the Government that the correct adjusted sentencing range is 151-188 months. However, the Court originally sentenced the Defendant at the bottom of the guideline range (235 months). When the Court reduced his sentence under the 2008 retroactive adjustment, it again sentenced the Defendant at the bottom of the guideline range (188 months). The Defendant asserts that under the present retroactive adjustment, the Court should again sentence him at the bottom of the guideline range (151 months). If the Court is going to consider an adjustment other than at the bottom of the guideline range, the Defendant requests an evidentiary hearing.

2. The Defendant resists the Government's position that he should be denied a sentence reduction entirely. The Government cites non-binding cases from other courts, but the Defendant

does agree that the Court may consider post-conviction conduct in the adjustment process. However, the Defendant first notes that the alleged infractions are attributed to someone named Collins. The Probation Office should provide detailed records showing that the list really does pertain to this defendant.

3. Further, the Defendant notes that 68% of the alleged infractions occurred before the Court adjusted the Defendant's sentence in 2008. The Government had no objection to a retroactive adjustment at that time. The only alleged infraction in the past two years is that he was insolent to a staff member, refusing to obey some sort of order. According to the Probation Office's list, the Defendant's alleged behavior has actually improved since 2008. If the Court is going to consider denying or limiting a retroactive adjustment, the Defendant requests an evidentiary hearing.

4. The Defendant resists the Government's alternative position that the Court now modify the terms of his supervised release. He agrees such a modification would require the Court to hold an evidentiary hearing.

WHEREFORE, Defendant Simpson asks the Court to reduce his sentence to 151 months.

For AGRON MITCHELL SIMPSON, Defendant
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PROOF OF SERVICE

I certify that on 11 December 2011 I filed this document with the clerk of this Court through the CM/ECF system. All participants in this case are registered CM/ECF users, and service will be through the CM/ECF system.

s / *James Bryson Clements*

cc: Agron M. Simpson
file (SIMPSONam6077.01B)